

Message Text

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TAGS: ETEL, CA

SUBJ: TELEPROMPTER SITUATION

REF: OTTAWA A-571, NOV 8, 1974

1. JUDGE I. A. VANNINI, DISTRICT COURT IN SAULT STE. MARIE, ONTARIO, ON DECEMBER 5, UPHELD MAY 1, 1974 CONVICTION OF CONTINENTAL CABLEVISION ET AL BY JUSTICE GRECO IN PROVINCIAL COURT (CRIMINAL DIVISION) OF DISTRICT OF ALGOMA FOR VIOLATION OF SECTION 29 OF BROADCASTING ACT. FOLLOWING IS TEXT OF ARTICLE ENTITLED "JUDGE UPHOLDS CONVICTION OF TELEPROMPTER" FROM TORONTO GLOBE AND MAIL OF DEC 6. SUMMARIZING JUDGMENT:

BEGIN TEXT. DISTRICT COURT JUDGE I. A. VANNINI HAS UPHELD A LOWER COURT VONCTION AGAINST THE NEW YORK-BASED TELEPROMPTER CABLE COMMUNICATIONS CORP. ON A CHARGE OF OPERATING A CABLE TELEVISION SYSTEM IN SAULT STE. MARIE WITHOUT A VALID LICENCE.

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TELEPROMPTER, WHICH OPERATES CONTINENTAL CABLEVISION,

WAS CONVICTED IN MAY AND FINED \$1,000 ON EACH OF TWO COUNTS WHILE THE MANAGER OF CONTINENTAL, RALPH MAAHS, WAS FINED A TOTAL OF \$500.

DESCRIBING THE CASE AS "ONE OF THE WORST CASES, DESERVING OF THE MAXIMUM PUNISHMENT," JUDGE VANNINI UPHELD THE FINES AND ORDERED TELEPROMPTER TO PAY \$1,000 TO COVER THE COST OF THE APPEAL.

IN A TWO-HOUR JUDGEMENT, THE JUDGE SAID TELEPROMPTER SHOULD CONSIDER ITSELF FORTUNATE THE PROSECUTION WAS LIMITED TO THE COMMISSION OF THE OFFENCE ON JUST TWO DAYS.

CONTINENTAL HAS BEEN OPERATING IN SAULT STE. MARIE WITHOUT A LICENCE SINCE NEW REGULATIONS GOVERNING THE OWNERSHIP OF CABLE COMPANIES CAME INTO EFFECT IN APRIL, 1968.

JUDGE VANNINI SAID THE CORPORATION EXHIBITED "A DEFIANT ATTITUDE TOWARD THE CANADIAN RADIO-TELEVISION COMMISSION AND THE LAWS OF THE COUNTRY, PROBABLY BECAUSE IN THEIR OVORY TOWER IN NEW YORK CITY THEY FELT IMMUNE, UNTRACEABLE AND UNREACHABLE."

HE SAID THE COMPANY SOUGHT TO SHEIDL ITSELF BY MAKING IT DIFFICULT TO TRACE OWNERSHIP OF ITS OPERATIONS, ADDING THAT ELEPROMPTER, OPERATING WITHOUT A LICENCE "HAD THE TENACITY TO INTERVENE IN THE APPLICATION FOR A CABLE LICENCE BY LAKE SUPERIOR CABLEVISION." LAKE SUPERIOR WAS GRANTED A LICENCE TO OPERATE A CABLE SYSTEM IN THE SOO. THE CITY IS COVERED NOW BY THE TWO SYSTEMS.

IN RESPONSE TO A SUGGESTION BY ONE DEFENCE LAWYER, JUDGE VANNINI SAID HE WAS SATISFIED THE CRTC DID NOT DISCRIMINATE AGAINST THE DEFENDANTS, BUT GAVE EVERY OPPORTUNITY TO LEGALIZE ITS OPERATIONS BY COMPLYING WITH THE LAWS OF CANADA.

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CRTC LAWYER AND PROSECUTOR DOUG CARRUTHERS TOLD THE COURT THAT AMPLE TIME WAS GIVEN TO TELEPROMPTER TO COMPLY WITH THE NEW REGULATIONS. ON JULY 20, 1972, HE SAID, NOTICE WAS GIVEN TO CEASE OPERATIONS IN SAULT STE. MARIE AND THE RESPONSE TO TELEPROMPTER WAS TO MAKE AN APPLICATION FOR AN INJUNCTION AGAINST THE CRTC. THE APPLICATION IS STILL PENDING.

THE CHARGE AGAINST TELEPROMPTER AND R. MAAHS STATED THAT ON OCT 28 AND OCT 29, 1972, THEY DID UNLAWFULLY JOINTLY CARRY ON A BROADCAST UNDERTAKING WITHOUT A VALID BROADCAST LICENCE, CONTRARY TO THE BROADCASTING ACT. MR. CARRUTHERS SAID "THEY HAVE BEEN THUMBING THEIR NOSES AT THE FEDERAL GOVERNMENT OF CANADA SINCE APRIL OF 1968, SAYING 'DON'T BOTHER US.'" END TEXT.

2. ALLAN R. O'BRIEN ATTORNEY FOR TELEPROMPTER AND CONTINTAL, DESCRIBED VANNINI DECISION TO TCO DECEMBER 6 AS "EXTREMELY HARSH" AND INDICATED FULL TEXT WILL NOT BE AVAILABLE FOR AT LEAST A WEEK. HE HAS PROMISED SUPPLY COPY TO EMBASSY AND WE WILL FORWARD TO L/EUR. O'BRIEN INDICATED CONTINENTAL HAS 30 DAYS WITHIN WHICH TO APPEAL DISTRICT COURT RULING TO COURT OF APPEAL FOR ONTARIO BUT NO DECISION TO DO SO HAS YET BEEN MADE. CONTINENTAL'S NEXT STEP WILL BE TO APPROACH CANADIAN RADIO-TELEVISION COMMISSION (CRTC) FOR MORE TIME WITHIN WHICH TO SELL OPERATION AS GOING CONCERN TO A THIRD PARTY, WHICH MIGHT BE ABLE TO OBTAIN A LICENCE; OR TO RESUME NEGOTIATION WITH LAKE SUPERIOR CABLEVISION FOR SALE OF ASSETS, NOTABLY SUBSCRIBER BASE.

3. ON DEC 2 EMBASSY FORWARDED TO GUDGEON COPIES OF INFORMATIONS FILED BY CRTC AGAINST PARTIES WHICH LED TO CONVICTIONS BEFORE JUSTICE GRECO. WE HAVE TODAY RECEIVED PACKET OF MATERIALS FROM CRTC MANAGING DIRECTOR HYLTON WHICH WE ARE ALSO FORWARDING. THESE INCLUDE: (1) JUSTICE GRECO'S DECISION OF MAY 1; (2) CLAIM OF TELEPROMPTER, NOVEMBER 27, 1972, IN FEDERAL COURT OF CANADA SEEKING INJUNCTION AGAINST CRTC'S EFFORTS PROCEEDS AGAINST IT, AND COUNTERCLAIM BY LIMITED OFFICIAL USE

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CRTC; AND (3) TESTIMONY AT 1969 HEARINGS WHEN PRECECESSOR OF LAKE SUPERIOR CABLEVISION SOUGHT LINENSE FOR SAULT STE. MARIE AND WAS OPPOSED BY CONTINENTAL, PLUS RELATED CRTC PROCEDURAL DOCUMENTS.

4. TELEPROMPTER'S REQUEST FOR INJUNCTION AGAINST CRTC, O'BRIEN HAS ADVISED, IS STILL IN PRE-TRIAL STAGE AT FEDERAL COURT, NO DATE FOR TRAIL HAS BEEN SET.

5. WITH RESPECT TO THE 1969 HEARINGS, WE WOULD CAUTION THAT THIS MATERIAL HAS BEEN SELECTED BY CRTC AND PRESUMABLY REFLECT ITS VIEW OF HOW CASE WAS HANDLED AS OUTLINED BY HYLTON ON PAGES 2 AND 3 OF REFAIR. THERE MAY BE OTHER RELEVANT MATERIAL THAT TELEPROMPTER ITSELF CAN PROVIDE WHICH WOULD PROVIDE

SOMEWHAT DIFFERENT PERSPECTIVE.

6. O'BRIEN ALSO INDICATED TELPROMPTER WILL PROBABLY BE REQUESTING SOME FORM OF SPECIFIC EMBASSY INTERVENTION WITH GOC IN THE WAKE OF JUDGE VANNINI'S FULING. THIS WILL PROBABLY BE SUPPORT OF REQUEST FOR MORE TIME. IN O'BRIEN'S VIEW SUCH SUPPORT SHOULD BE EXTENDED WITHIN 30 DAYS FROM NOW IF IT IS TO BE EFFECTIVE. GIVEN COMPLEXITY OF THIS CASE, IF DEPARTMENT INSTRUCTS EMBASSY TO INTERVENE, FAIRLY SPECIFIC GUIDANCE SHOULD BE PROVIDED. JOHNSON

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